IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 764 of 2006

Jogendra Bisht S/o Ganga Singh Bisht
R/o Badri View, Ranikhet,
District Almora (Uttaranchal)
…… Applicant

Versus

1. Cantonment Board,
   Ranikhet, though Executive Officer,
   District Almora, (Uttaranchal).
2. Judicial Magistrate,
   Rinikhet, District Almora.

…….. Respondents

Mr. Mohan Chandra Pande, Advocate for the applicant.
Mr. Sudhanshu Dhulia, Sr. Counsel assisted by Ms. Puja Banga,
Advocate for the respondent No. 1.

Hon'ble Prafulla C. Pant, J

Heard Mr. Mohan Chandra Pande, learned counsel for the petitioner and Mr. Sudhanshu Dhulia, Senior Counsel assisted by Ms. Puja Banga, learned counsel for respondent No. 1.

2) By means of this petition, moved under Section 482 of the Code of Criminal Procedure, 1973, the petitioner has sought quashing of the proceedings of criminal case No. 419 of 2006; Cantonment Board Vs. Jogendra Bisht, under Section 500, 504, 507, 353 of I.P.C. and under Section 7 of the Criminal Law Amendment Act, 1932.

3) In its jurisdiction under Section 482 of Cr.P.C., this Court cannot appreciate the correctness of the allegations

contained in the compliant, nor can it examine the half baked evidence on record, at this stage. What can be seen, at this stage is, whether, there is disclosure of ingredients of offence from the evidence before the trial court, before summoning the accused?

4) Form the perusal of the papers on record, it cannot be said that the offences alleged to have committed punishable under Section 500, 504, 507, 353 of I.P.C. are not made out. In the circumstances, this Court is not inclined to interfere in the criminal proceedings, pending before the trial court relating to alleged offences punishable under Section 500, 504, 507, 353 of I.P.C. However, as to the offence punishable under Section 7 of the Criminal Law Amendment Act is concerned, since the same, prima facie, appears to be in violation of Clause II of said Act, as such, to that extent the impugned order summoning the petitioner can be quashed.

5) For the reasons, as discussed above, the petition is dismissed with the observation that the pleas of innocence taken by the petitioner before this Court, can be raised by him before the trial court. This Court further directs that if the petitioner is arrested or surrenders before the court concerned, and moves application for bail, his bail application shall be heard without unreasonable delay. The petition stands disposed of. (Interim Relief Application No. 1577 of 2006 also stands disposed of.)

(Prafulla C. Pant, J.)

Dt. 26th September, 2006.
H. Negi